

EXHIBIT A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :  
 :  
- v - : S(7) 98 CR 1023 (LBS)  
 :  
USAMA BIN LADEN, et al., :  
 :  
Defendants. :  
 :  
-----X

GOVERNMENT'S REQUESTS TO CHARGE

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To become a member of the conspiracy, the defendant in question need not have known the identities of each and every other member, nor need he have been apprised of all of their activities. Moreover, the defendant need not have been fully informed as to all of the details, or the scope, of the conspiracy to justify an inference of knowledge on his part. Furthermore, the defendant need not have joined in all of the conspiracy's unlawful objectives. Nor is it necessary that the defendant receive any monetary benefit from participating in the conspiracy or have a financial stake in the outcome, as long as he in fact participated in the conspiracy in the manner I have explained.

You have heard testimony during the trial about certain organizations, including al Qaeda, Egyptian Islamic Jihad, and others. The conspiracies charged in Counts One through Six are alleged to have been formed by members and nonmembers of these organizations. You need not find that a particular defendant was a member of al Qaeda or any other organization to find that the defendant was a member of the conspiracy in question. Similarly, even if you find that a particular defendant was a member of al Qaeda, that does not necessarily mean that the defendant was a member of the conspiracy you are considering.

The extent of a defendant's participation has no bearing on the issue of a defendant's guilt. A conspirator's

liability is not measured by the extent or duration of his participation. Indeed, each member of a conspiracy may perform separate and distinct acts and may perform them at different times. Some conspirators play major roles, while others play minor roles in the scheme. An equal role is not what the law requires. In fact, even a single act may be sufficient to draw the defendant within the ambit of the conspiracy.

I want to caution you, however, that a defendant's mere presence at the scene of the alleged crime does not, by itself, make him a member of the conspiracy. Similarly, mere association with one or more members of the conspiracy does not automatically make that defendant a member, even when coupled with knowledge that a conspiracy is taking place. A person may know, or be friendly with, a criminal, without being a criminal himself.

I also want to caution you that mere knowledge or acquiescence, without participation, in the unlawful plan is not sufficient. Moreover, the fact that the acts of the defendant you are considering, without knowledge, merely happen to further the purposes or objectives of the conspiracy, does not make the defendant a member of the conspiracy. More is required under the law. What is necessary is that the defendant in question must have participated in the conspiracy with knowledge of at least some of the purposes or objectives of the conspiracy and with the intention of aiding in the accomplishment of those unlawful ends.

In sum, the defendant in question, having had an understanding of the unlawful character of the conspiracy, must have intentionally engaged, advised, or assisted in it for the purpose of furthering the illegal undertaking. The defendant thereby becomes a knowing and willing participant in the unlawful agreement—that is to say, a conspirator.

A conspiracy, once formed, is presumed to continue until either its objective is accomplished or there is some affirmative act of termination by its members. So, too, once a person is found to be a member of a conspiracy, that person is presumed to continue being a member in the venture until the venture is terminated, unless it is shown by some affirmative proof that that person withdrew and disassociated himself from it.

Adapted from 1 Leonard B. Sand, et al., Modern Federal Jury Instructions ¶¶ 3A.01, 19.01, Instr. 3A-1, 3A-3, 19-6, from Your Honor's charge in United States v. Rios, 91 Cr. 914 (LBS) (S.D.N.Y. 1992), and from the charge of the Honorable Michael B. Mukasey in United States v. Bello, 91 Cr. 571 (MBM), aff'd mem., 990 F.2d 622 (2d Cir. 1993). See United States v. Rea, 958 F.2d 1206, 1214 (2d Cir. 1992) ("The defendant's knowledge of the conspiracy and participation in it with the requisite criminal intent may be established through circumstantial evidence. A defendant need not have joined a conspiracy at its inception in order to incur liability for the unlawful acts of the conspiracy committed both before and after he or she became a member.") (citations omitted); United States v. Miranda-Ortiz, 926 F.2d 172, 175-76 (2d Cir. 1991) (generally discussing proof required to show membership in conspiracy); United States v. Maldonado-Rivera, 922 F.2d 934, 960 (2d Cir. 1990) (same).

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- V. -

**Defendants.**

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## CHARGE TO THE JURY

Now, a defendant's knowledge is a matter of inference from the facts proved. Science has not yet devised a manner of looking into a person's mind and knowing what that person is thinking. However, you do have before you evidence of certain acts and conversations alleged to have taken place with certain defendants or in their presence. The Government contends that these acts and conversations show beyond a reasonable doubt knowledge on the part of the defendant in question of the unlawful purpose of the charged conspiracies. On the other hand, each defendant denies that these acts and conversations showed that he had such knowledge. It is for you to determine, with respect to each of the four conspiracy counts alleged in the Indictment, whether the Government has established beyond a reasonable doubt that such knowledge and intent, on the part of the defendant you are considering, existed.

To become a member of the conspiracy, the defendant in question need not have known the identities of each and every other member, nor need he have been apprised of all of their activities. Moreover, the defendant need not have been fully informed as to all of the details, or the scope of the conspiracy to justify an inference of knowledge on his part. Furthermore, the defendant need not have joined in all of the conspiracy's unlawful objectives. Nor is it necessary that the defendant receive any monetary benefit from participating in the conspiracy. All that is required is that the Government prove, beyond a reasonable doubt, that the defendant you are considering participated in the conspiracy with knowledge of some of its unlawful purposes and with the intention of furthering those unlawful purposes.

You have heard testimony during the trial about certain organizations, including al Qaeda, Egyptian Islamic Jihad, and others. All four of the conspiracies charged in the Indictment are alleged to have been formed by members and nonmembers of these organizations.

You need not find that a particular defendant was a member of al Qaeda or any other organization to find that the defendant was a member of the conspiracy in question. Similarly, even if you find that a particular defendant was a member of al Qaeda, that does not necessarily mean that the defendant was a member of the charged conspiracy you are considering.

I caution you that individuals, including the Defendants in this case, have the right under our Constitution to assemble and discuss even the most unpopular ideas, including discussion of unlawful acts. Such assembly and discussion does not by itself necessarily establish an unlawful agreement, unless, of course, you find that an unlawful agreement was reached during that conversation. Expressions of sympathy and support for those who commit unlawful acts do not, without more, constitute entry into an unlawful agreement, nor does vigorous criticism of the United States government. One may belong to a group, knowing that some of its members commit illegal acts, without having entered into an agreement that these unlawful acts be committed. A frank expression or exchange of political views or opinions, no matter how vehement, radical or unpopular, does not, without more, constitute an unlawful agreement.

If you determine that a defendant became a member of the conspiracy, the extent of his participation in that conspiracy has no bearing on the issue of that defendant's guilt. A defendant need not have joined the conspiracy at the outset. A conspirator's liability is not measured by the extent or duration of his participation. Indeed, each member of a conspiracy may perform separate and distinct acts and may perform them at different times. Some conspirators may play major roles, while others may play minor roles in the scheme. An equal role is not what the law requires. In fact, even a single act may be sufficient to draw the

defendant within the ambit of the conspiracy, so long as the defendant has knowingly and willfully joined the conspiracy.

I want to caution you, however, that the following factors, standing alone, do not make the defendant you are considering a member of the conspiracy: (1) his mere presence at the scene of the alleged crime; (2) his mere presence at meetings with other conspirators; or (3) his mere residence in a particular country or neighborhood. Similarly, mere association with one or more members of the conspiracy does not automatically make that defendant a member, even when coupled with knowledge that a conspiracy is taking place. A person may know or be friendly with a criminal, or persons who are members of a conspiracy, without being a criminal or a co-conspirator himself. Mere similarity of conduct or the fact that they may have assembled together and discussed common aims and interests does not necessarily establish proof of the existence of a conspiracy.

I also want to caution you that mere knowledge or acquiescence, without participation, in the unlawful plan is not sufficient to satisfy the Government's burden of proof. Moreover, the fact that the defendant you are considering, without knowledge of the conspiracy's illegal objectives, merely happens by his actions to further the purposes or objectives of the conspiracy, does not make the defendant a member of the conspiracy. More is required under the law. What is necessary is that the defendant in question must have participated in the conspiracy with knowledge of at least some of the illegal purposes or objectives of the charged conspiracy and with the intention of aiding in the accomplishment of those unlawful ends.

Remember too that the unlawful objective which you find the defendant had knowledge of, and which he sought to further through his participation in the agreement, must